



6 April 2023

UN Human Rights Council unequivocally rejects the Myanmar junta's claim of legitimacy and legality *But still fails to call for a comprehensive arms embargo*

Adoption of the UN Human Rights Council resolution on Myanmar by consensus once again demonstrates that the Myanmar military is running out of allies and deals a huge yet another blow to the junta's campaign for international recognition and legitimacy. The resolution, adopted without a vote at the end of the 52nd regular session of the Human Rights Council on 4 April 2023, follows consensus adoption of the resolution on Myanmar at the UN General Assembly as well as the first ever resolution on Myanmar at the UN Security Council in December 2022.

The Human Rights Council resolution unequivocally condemns the junta's continuing violence against civilians and the democratic resistance and in no uncertain terms holds the junta alone responsible for the worsening human rights and humanitarian crisis in Myanmar.

However, despite this strong signal from the Human Rights Council, it falls short in several key areas. While the resolution rightly recognizes the serious human rights and humanitarian implications of "sale, diversion and illicit or unregulated transfer of arms" to Myanmar, as well as calls by the Special Rapporteur on Myanmar that were echoed by several Member States and civil society, the resolution failed to explicitly call for a comprehensive arms embargo to stop the military's atrocities.

Similarly, the resolution fails to call for sanctions on the sale of aviation fuel to the Myanmar military although the resolution condemns the junta's ongoing airstrikes against civilians and civilian infrastructure facilitated by the junta's access to aviation fuel.

It is noteworthy that, albeit in much watered-down language as a result of concessions to achieve consensus, the resolution expresses deep concern at the sale and diversion of arms and calls for cessation of "illicit transfers and diversion of arms, munitions and other military equipment" as well as on states to "refrain...from the export, sale or transfer of surveillance goods and technologies and less-lethal weapons" to the Myanmar military.

This, however, falls far short of recognizing the need to stop all forms of arms sale and transfers – regardless of whether they are legal or illegal under existing standards and norms – to the Myanmar military that has been committing a nationwide campaign of terror against the people of Myanmar for over two years. UN reports have [detailed](#) known arms transfers from UN Member States, namely China, Russia and India, to Myanmar since 2018 following the Rohingya genocide, and in particular since the attempted coup, that could be used in the commission of atrocity crimes.

In June 2021, the UN General Assembly (UNGA) called on UN Member States to prevent the flow of arms to Myanmar. The Human Rights Council must take a stronger stance and recognize the need for a comprehensive arms embargo to end the military's atrocity crimes. All UN Member States must immediately stop selling arms to the Myanmar military or risk complicity in its atrocity crimes.

The UN resolution also underscores the need to address root causes of the crisis in Rakhine State and to create conditions necessary for the voluntary, safe, dignified and sustainable return of Rohingya refugees, stressing the importance of their continued protection. We reiterate [calls](#) made by over 200 civil society organizations for the UN Secretary-General to urgently [investigate](#) the involvement of the UN High Commissioner for Refugees (UNHCR) and the World Food Programme (WFP) in the pilot repatriation project that could send Rohingya back to Myanmar in the [absence](#) of a safe, voluntary, dignified and sustainable return.

The UN have failed to address the grave issues specific to Myanmar that were identified in the [“Rosenthal Report”](#), which found systemic and institutional failures on the part of the UN in Myanmar leading up to and during the genocide in 2017. The Secretary-General must develop a further action plan that meaningfully and urgently implements the recommendations of the report.

For the first time, the resolution on Myanmar at the Human Rights Council referred to the National Unity Government (NUG), welcoming its pronouncement articulated in the “Policy position on the Rohingya in Rakhine State” that recognizes Rohingya’s rights to citizenship. The Council must take a further step in recognizing the NUG’s Declaration under Article 12(3) of the International Criminal Court’s Rome Statute, accepting the Court’s jurisdiction over the State of Myanmar. The NUG must also take further concrete actions to implement their policy and to guarantee the rights and dignity of Rohingya with meaningful participation of Rohingya themselves.

On 28 March, the junta dissolved 40 political parties, including the National League for Democracy led by imprisoned State Councillor, Daw Aung San Suu Kyi, despite having no legal basis to dissolve political parties as an illegal military junta. This is yet another ploy by the military that is conspiring to illegally hold sham national elections. The military lacks the legitimacy and [effective control](#) of Myanmar’s territory and does not have a constitutional basis to hold such an election, which was [made clear](#) by a January 2023 report by the Special Rapporteur on Myanmar. Myanmar people have vocally rejected the junta’s plans for sham elections. The international community must join them and unequivocally denounce any such plans, and clearly reject potential voting results as illegitimate.

This latest action by the military junta also clearly demonstrates that the junta has no intention of pursuing an inclusive process to resolve the crisis in Myanmar in accordance with the will of the people of Myanmar expressed in November 2020 election. While we are disappointed with the Council’s continued support for ASEAN’s failed Five Point Consensus, the resolution expresses support for the “ASEAN Leaders’ Review and Decision on the implementation of the Five Point Consensus”, which was adopted at the ASEAN Summit in November 2022. This, by extension, recognizes the need for a time-bound action plan for the implementation of the Five Point Consensus.

Ahead of its Summit in May, ASEAN must review and reframe the Five Point Consensus to better reflect the ground realities and the will of the Myanmar people to achieve federal democracy, justice and accountability. In this respect, ASEAN must take steps to formally and meaningfully engage and consult with key stakeholders from Myanmar, including the NUG, the National Unity Consultative Council and Ethnic Revolutionary Organizations. It must initiate an ASEAN-Plus approach to impose arms embargoes and provide humanitarian aid directly to those who are working in the frontlines with the communities most deeply affected by the military’s ongoing atrocity crimes, including through provision of border based humanitarian aid.

Over two years since the military's attempted coup, the will of the people of Myanmar to resist the military for the establishment of a federal democratic Myanmar remains strong. The Council must mobilize member states to reflect the repeated calls made by the people of Myanmar to further restrict military's access to arms and actualize justice and accountability through all possible routes.

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